

Message Text

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ORIGIN OES-02

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DRAFTED BY OES:RCBREWSTER:HHB
APPROVED BY OES - R. C. BREWSTER, ACTING
ARA/EC:AJBUMPUS

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P 010111Z JUL 78
FM SECSTATE WASHDC
TO AMEMBASSY BUENOS AIRES PRIORITY

C O N F I D E N T I A L STATE 167568

STADIS/////////////////////////////////
LIMDIS

E.O. 11652: GDS

TAGS: XV, EFIS, TGEN, AR

SUBJECT: ANTARCTIC MARINE LIVING RESOURCE NEGOTIATIONS

1. EMBASSY WILL RECALL THAT DURING BREWSTER/SCULLY CONSULTATIONS JUNE 14/15 WITH MINISTER OLIVIERI LOPEZ AND OTHERS U.S. SIDE INFORMALLY SUGGESTED THAT CONSIDERATION BE GIVEN TO A QUALIFIED MAJORITY/OBJECTION VOTING PROCEDURE IN THE COMMISSION, MODELLED IN PART ON THE INTERNATIONAL WHALING COMMISSION, WHICH WOULD PROVIDE FOR OBJECTION TO COMMISSION MEASURES BOTH FOR LACK OF ACCORD WITH THE CONSERVATION STANDARD AND WITH THE JURIDICAL PROVISIONS OF THE CONVENTION.

2. WE HAVE NOW PREPARED A DRAFT WHICH ILLUSTRATES HOW SUCH A PROVISION MIGHT LOOK. EMBASSY IS REQUESTED TO
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PROVIDE A COPY OF THE TEXT WHICH FOLLOWS IN PARA 4, BELOW, TO OLIVIERI IN ENGLISH ONLY, LABELLED CONFIDENTIAL, AND DATED JUNE 29, 1978. PLEASE INFORM OLIVIERI THAT THIS LANGUAGE IS ILLUSTRATIVE OF THE APPROACH WE DISCUSSED ON THE DECISION-MAKING QUESTION; SAY WE ARE PROVIDING IT TO HIM FOR HIS CONSIDERATION BUT DO NOT PLAN TO PROVIDE IT TO OTHERS; REQUEST IT BE KEPT IN CONFIDENCE; AND STATE

WE WILL LOOK FORWARD TO LEARNING HIS REACTION ON JULY 14
WHEN U.S. REPRESENTATIVE AND OTHER MEMBERS OF USDEL ARRIVE

IN BUENOS AIRES AND HOPE TO MEET BRIEFLY WITH HIM AGAIN.
EMBASSY SHOULD ALSO STATE THAT WE ARE EXAMINING THE
POSSIBILITY OF A SPECIAL SCIENTIFIC ZONE AS SUGGESTED BY
ARGENTINE SIDE AND WILL BE PREPARED TO GIVE OUR INITIAL
INFORMAL REACTIONS ON THAT DURING JULY 14 MEETING
SUGGESTED ABOVE.

3. BEGIN FYI: ILLUSTRATIVE DRAFT CONSISTS OF CHANGES TO
TWO ARTICLES OF THE CHAIRMAN'S REVISED DRAFT CONVENTION
WHICH EMERGED FROM THE CANBERRA MEETING. THERE IS A
REVISION AND ADDITION TO ARTICLE VIII AND A REVISION OF
ARTICLE X. END FYI

4. BEGIN QUOTE: CONFIDENTIAL

REVISION AND ADDITION TO ARTICLE VIII OF THE CHAIRMAN'S
--- REVISED DRAFT

-- 6. CONSERVATION MEASURES SHALL BECOME BINDING UPON
CONTRACTING PARTIES NINETY (90) DAYS FOLLOWING NOTIFICA-
TION OF THE MEASURE BY THE COMMISSION TO EACH OF THE
CONTRACTING PARTIES EXCEPT AS PROVIDED IN PARAGRAPHS
7, 8, AND 9 BELOW.
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-- 7. A CONTRACTING PARTY MAY PRESENT AN OBJECTION TO A
CONSERVATION MEASURE ONLY IF IT CONSIDERS SUCH MEASURE
TO BE INCONSISTENT EITHER WITH ARTICLE II OR WITH
ARTICLES IV, XIX AND/OR XXI OF THIS CONVENTION. A
CONTRACTING PARTY SHALL STATE TO THE COMMISSION WHICH
OF THESE ARTICLES IT CONSIDERS THE MEASURE TO BE IN-
CONSISTENT WITH IN PRESENTING ITS OBJECTION.

-- 8. IF A CONTRACTING PARTY PRESENTS AN OBJECTION TO A
CONSERVATION MEASURE, WITHIN NINETY (90) DAYS OF ITS
NOTIFICATION BY THE COMMISSION AND CERTIFIES IT TO BE
INCONSISTENT WITH ARTICLES IV, XIX AND/OR XXI OF THIS
CONVENTION, THAT CONSERVATION MEASURE SHALL NOT ENTER
INTO FORCE FOR ANY CONTRACTING PARTY.

-- 9. IF A CONTRACTING PARTY PRESENTS AN OBJECTION TO
A CONSERVATION MEASURE, WITHIN NINETY (90) DAYS OF ITS
NOTIFICATION BY THE COMMISSION AND DECLARES IT TO BE
INCONSISTENT WITH ARTICLE II OF THIS CONVENTION THE
FOLLOWING PROCEDURE SHALL BE FOLLOWED:

-- (A) SUCH MEASURE SHALL NOT BECOME EFFECTIVE FOR AN ADDITIONAL SIXTY (60) DAYS;

-- (B) THEREUPON ANY OTHER CONTRACTING PARTY MAY SIMILARLY PRESENT AN OBJECTION PRIOR TO THE EXPIRATION OF THE ADDITIONAL SIXTY (60) DAY PERIOD, OR WITHIN THIRTY (30) DAYS OF THE DATE OF THE NOTIFICATION OF AN OBJECTION MADE BY ANOTHER CONTRACTING PARTY WITHIN SUCH ADDITIONAL SIXTY (60) DAYS, WHICHEVER DATE SHALL BE THE LATER;

-- (C) THE CONSERVATION MEASURE SHALL BECOME EFFECTIVE AT THE END OF THE PERIOD OR PERIODS FOR OBJECTION ONLY FOR THOSE CONTRACTING PARTIES WHICH HAVE NOT PRESENTED AN OBJECTION, UNLESS A SIMPLE MAJORITY OF CONTRACTING PARTIES
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HAVE PRESENTED AN OBJECTION IN WHICH CASE THE CONSERVATION MEASURE SHALL NOT ENTER INTO FORCE;

-- (D) ANY CONTRACTING PARTY WHICH HAS OBJECTED TO A CONSERVATION MEASURE ON THE GROUNDS OF ITS INCONSISTENCY WITH ARTICLE II OF THIS CONVENTION, MAY AT ANY TIME WITHDRAW THAT OBJECTION AND THE MEASURE SHALL BECOME EFFECTIVE FOR THAT CONTRACTING PARTY, IMMEDIATELY IF ALREADY IN FORCE OR AT SUCH TIME AS IT MAY BECOME EFFECTIVE UNDER THIS PARAGRAPH.

-- 10. THE COMMISSION SHALL NOTIFY EACH CONTRACTING PARTY IMMEDIATELY UPON RECEIPT OF EACH OBJECTION AND OF EACH WITHDRAWAL OF AN OBJECTION, AND OF THE ENTRY INTO FORCE OF EACH CONSERVATION MEASURE.

-- 1. EACH MEMBER OF THE COMMISSION SHALL HAVE ONE VOTE.

-- 2. EVERY EFFORT SHALL BE MADE TO TAKE DECISIONS BY CONSENSUS.

-- 3. DECISIONS ON ALL MATTERS OF SUBSTANCE, IF NOT TAKEN BY CONSENSUS, SHALL BE TAKEN BY A (TWO-THIRDS) MAJORITY OF THE MEMBERS OF THE COMMISSION PRESENT AND VOTING. THE QUESTION WHETHER A MATTER IS ONE OF SUBSTANCE SHALL BE TREATED AS A MATTER OF SUBSTANCE.

-- 4. ALL DECISIONS OTHER THAN THOSE REFERRED TO IN PARAGRAPH 3, IF NOT TAKEN BY CONSENSUS, SHALL BE TAKEN BY A SIMPLE MAJORITY OF THE MEMBERS OF THE COMMISSION PRESENT AND VOTING.

-- 5. THE PROVISIONS OF THIS ARTICLE SHALL NOT AFFECT THE
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OPERATION OF ARTICLE XVII OF THIS CONVENTION.

JUNE 29, 1978

--- CONFIDENTIAL END QUOTE

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